

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING HELD AT BILASPUR

Original Application No. 362 of 2004

Bilaspur, this the 10th day of May, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri A.K. Bhatnagar, Judicial Member

T.C. Parmar, S/o. Shri Chaturbhai Parmar,
aged about 38 years, Occupation : Service
as Assistant Director (Chem.) Gr.I, Small
Industries Service Institute Opp. Chhatisgarh
Club, Raipur (Chhatisgarh State), Resident
of - C/o. Shri Manohar Sahu, Tarun Nagar,
Near Lodhipara, Raipur (Chhatisgarh State). ... Applicant

(By Advocate - Shri P.N. Shende on behalf of Shri R.R. Ram)

V e r s u s

1. Union of India, through the Secretary (SSI) Udyog Bhavan, New Delhi.
2. The Development Commissioner, (Small Scale Industries), Ministry of SSI Govt. of India, 7th Floor, Nirman Bhavan, Moulana Azad Road, New Delhi-110011.
3. Shri G.D. Gidwani, Director, Small Industries Service Institute, Opp. Chhatisgarh Club, Civil Lines, Raipur, Chhattisgarh. ... Respondents

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has claimed the following main reliefs :

"(i) the impugned order Annexure A-1 may please be quashed forth with,

(ii) that all the financial bills may please be ordered to be paid to the applicant at the earliest which are in pending on account of only transfer."

2. The brief facts of the case are that the applicant was appointed on the post of Assistant Director in the year 1990. He was transferred to Gulbarga in June 1999 and Raipur in the year 2001. The applicant has now been transferred from SISI, Raipur to SEPTI, Ettumanoor vide order dated 20th November, 2003 with immediate effect.

xxxxx In the present case the applicant has stated that his transfer from Raipur to Ettumanoor is not in public interest but has been ordered by way of punishment. According to him he has been keeping constant watch on the irregularities of other officers and has reported the matter to the higher authorities on his own accord. He has also alleged malafide against the respondent No. 3. Some of the acts of malafide against respondent No. 3 attributed are as follows :

"6.14 Shri Gidwani, Director Raipur was Deputy Director Indore and hence he was aware about the integrity of the applicant and so he joined the office of Raipur with prejudiced mind against the applicant. That is why, the moment he occupied the chair he issued office order in which the applicant was given the work of chemical and pharmaceutical division while 4 non-gazetted officers, who can obey his illegal instruction were made division head against the normal official procedure. (This practise is no where prevalent in organisation).

6.15 When the applicant submitted a letter dated 22.5.2002 about the irregularities of Shri Lakra, the respondent No. 3 used very filthy language against the applicant and threatened to spoil the career of the applicant and ultimately he succeed in his mission.

6.16 When the applicant was not assigned any work, he prepared his own target and submitted to respondent No. 3 for approval on 5.6.2002 which was though approved by him but when the applicant put up the proposal of fund allotment to the respondent No. 2 the same was evaded by the director the respondent No. 3 on pretext that let us wait for further allocation of fund from the respondent No. 2. Later on the respondent No. 3 received the fund but not provided to the applicant. (Letter dtd. 5.6.2002 is annexed as A-12).

6.17 The details of all the harassments by the respondent No. 3 is already submitted to the respondent No. 1 vide the representation dated 15.12.2003 as Annexure 4 and the other documentary evidences will be submitted in due course when required.

6.18 The respondent No. 3 is determined to kill the career of applicant by inflicting false offensive charge which was never happened. That is why he deliberately causes to transfer the applicant by hook or by crook. In this respect R-3 had written a letter to R-2 to transfer applicant vide his letter dtd. 6.3.2003.

6.19 As per respondent No. 3's oral directions who was away on leave, never the less, the regd. letter dt. 27.6.2002 was given dispatch number by dispatch clerk and copy was shown to the applicant but actually the original letter was not dispatched. It is the example of verbal control of the office by respondent No. 3 when he is out of head quarter on leave.

6.20 Vide file No. MG/09/02 page No. 8 on 10.7.2002 but actually not put up to the applicant and requested

to start proper file movement procedure which he never started.

6.21 The applicant was issued several letters about his absence in the office on particular day which was taken back but again it was issued. Even on many occasion the respondent No. 3 and the applicant has attended the same function.

6.22 The respondent No. 3 issued a DO letter to applicant on 18/22.10.2002 wherein severe fabricated allegations were made which was replied to by the applicant on 29.10.2002 which was not recorded in office register.

6.23 The applicant had written several letters to various organisations asking technical details, when the informations came the same were not given to the applicant but were given to the officers of different trade.

6.24 The service book of the applicant is not provided to him for the verification of the entries. That R-3 has made some false entries about his earn leave in service book. Applicant made several abortive representation to all respondents.

6.25 On account of a bundle of arbitrariness for making scape goat to the applicant his ACR for 2003 has not been provided for self assessment and his so many financial bills are kept pending without payment to him in order to suffer him financially. A representation dated 27.11.2003 in this respect was made to the respondent No. 1 which so resulted that the impugned transfer order Annexure A-1 has been passed which is quite malafide, arbitrary, against the rules and regulations and illegal and hence requires to be quashed by the Tribunal in the interest of justice. The impugned order was issued by R-2 on 28.11.2003.

6.26 Applicant submitted a letter dtd. 25.9.2003 to R-2 for no work is annexed as A-13."

In view of aforesaid grounds taken by the applicant that he is being harassed by the respondent No. 3 and because of the fact that he has been writing directly to the higher authorities about the irregularities committed by other officers particularly the respondent No. 3 he has been transferred to SEPTI, Ettumanoor. Hence, this Original Application is filed.

3. The respondents in their reply have stated that the applicant being a Group-A Gazetted officer has all India transfer liability and the employer is the best judge to utilize the services of the applicant as and when required in the larger public interest. The Hon'ble Supreme Court in

catena of decisions has held that transfer is an incident of

service and the Courts/Tribunal should not interfere in such transfer ordinarily, unless some malafide has been attributed towards a particular person. The respondents have further submitted that the allegations levelled by the applicant against the respondent No. 3 are totally baseless. As a matter of fact the claim made by the applicant that he has saved lakhs of rupees for the national exchequer is preposterous. It is further submitted by the respondents that Mr. G.D. Gidwani took over charge as Director, SISI, Raipur on 15.5.2002. During the short span of time, he received complaints from entrepreneurs regarding harassment meted out to them by the applicant. Copies of the complaints are at Annexure R-4. In one of the cases, the entrepreneur has also intimated in writing that applicant demanded money from him ⁱⁿ the name of Director and the applicant was also obliged for that. This ^{very} was a serious matter. There was prolonged correspondence between Director and applicant for releasing the cases in respect of the units for which applicant carried out the inspection. Unfortunately, the applicant kept on lingering with the cases, with the result the entrepreneurs were badly affected in terms of delay in release of their cases and otherwise also. All allegations made by the applicant against the respondents particularly respondent No. 3 have been denied by them. It is also mentioned that the applicant tried to humiliate the respondent No. 3 alongwith outsiders and also threatened him as a result, the respondent No. 3 got a paralytic stroke. This incident was reported to the Headquarter. According to them all financial bills submitted by the applicant have been settled. In view of the submissions made above the applicant is not entitled to any relief and the Original Application is liable to be rejected.

4. Heard the learned counsel for the parties and carefully perused the pleadings and records.



5. In this case the question for consideration before us is whether the order dated 20th November, 2003 passed by the respondent No. 2 is malafide and has been passed by way of punishment to harass the applicant. It is a well settled legal position by the Hon'ble Supreme Court that the ~~XXXXXX~~ courts/Tribunal should not interfere in the matters relating to transfer unless it is malafide or violation of statutory guidelines. In this case there is no violation of guidelines. The transfer is an incident of service. To whom to post where comes within the domain of the executive and the Courts/Tribunal cannot interfere in such matters. We find that the applicant has made/number of allegations against the respondents particularly respondent No. 3 and the respondents have made counter allegations against the applicant. The Tribunal is not expected to hold an enquiry in the allegations/counter allegations made by the applicant as well as the respondents. The only question which is to be considered by us is whether the transfer order issued against the applicant by the respondents is issued in violation of any guidelines or by way of punishment. We are satisfied that there is no violation of any statutory guidelines and the transfer has been done in public interest. It is also not in dispute that the applicant being a Class-I officer has all India Transfer liability. As regards the allegations and counter allegations between the applicant and the respondents particularly respondent No. 3, can be sorted out by the respondent No. 2 by holding a departmental enquiry. It is also very interesting to note that during the course of argument the learned counsel for the applicant has stated that the location of the station to which the applicant has been transferred i.e. Ettumanoor is not known to him. Hence, directions be given to the respondents to guide the applicant about it. It is surprising that a Class-I officer holding the post of Assistant Director is finding it

difficult to locate the office of SEPTI, Ettumanoor and seeking direction from the Court to direct the respondents to inform him about it. We do not find any ground to interfere with the transfer order passed by the respondents in this case

6. For the reasons recorded above, we are of the considered opinion that the applicant has failed to prove his case and this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.

(A.K. Bhatnagar)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

gssued

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